

In The Matter Of Merchant Mariner's Document No. Z-842365
Issued to: CHARLES M. EMERSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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CHARLES M. EMERSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 27 February, 1952, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-842365 issued to Charles M. Emerson upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as wiper on board the American SS JOSEPH W. FOLK under authority of the document above described, on or about 17 January, 1952, while said vessel was at sea, he wrongfully had in his possession a certain narcotic substance; to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. A plea of "not guilty" to the charge and each specification was entered by the Examiner on behalf of Appellant when he stated that he was guilty of having the substance in his possession but that he did not know it was marijuana.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence an excerpt from the shipping articles for the voyage, entries from the official log book of the ship, and a stipulation between the parties as to what certain parties would testify to if they were called as witnesses.

Appellant did not testify under oath but merely reiterated his statement that he did not know what the marijuana was when he had it in his possession.

At the conclusion of the hearing, having given both parties an opportunity to submit arguments, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-842365 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that the evidence is not sufficient to sustain the findings; that Appellant acted without knowledge of the actual facts; and that Appellant's document should be returned to him in view of his excellent record.

Based upon examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 17 January, 1952, Appellant was serving as wiper on board the American SS JOSEPH W. FOLK and acting under authority of his Merchant Mariner's Document No. Z-842365.

On this date, the Master of the ship confiscated a quantity of a substance which Appellant had placed in the medicine cabinet in his quarters. Subsequent analysis by the U. S. Customs Laboratory at New York City disclosed that this substance contained 149 grains of marijuana.

Appellant had been given the marijuana by another member of the crew who told Appellant that it was hashish. Appellant smoked a cigarette made out of the marijuana aboard ship before it was discovered in his possession.

Appellant is twenty-six years of age and has been going to sea for only six months. This was his second voyage.

OPINION

The evidence clearly indicates that Appellant, Regardless of his prior personal ignorance, was fully acquainted with the fact that he had a narcotic substance in his possession. He was so informed by the crew member who had given it to him as well as by the conversation and conduct of other members of the crew. Nevertheless, he retained it in his possession. Because of the serious threat presented to life and property by the presence of any narcotics aboard ships, the most severe order of revocation must be imposed against the documents of seamen found guilty of any narcotics offense.

ORDER

The order of the Examiner dated 27 February, 1952, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 16th day of June, 1952.